

ESTTA Tracking number: **ESTTA349300**

Filing date: **05/24/2010**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91194528
Party	Defendant Broadway Kids Care
Correspondence Address	BROADWAY KIDS CARE 321 W 44TH ST #603 NEW YORK, NY 10036-5455 nbradley@eastofdoheny.com
Submission	Answer
Filer's Name	Ralph N. Gaboury, Esq.
Filer's e-mail	rgaboury@dorflaw.com
Signature	/Ralph Gaboury/
Date	05/24/2010
Attachments	Answer Opp 91194528 Ser 77790645.pdf (3 pages)(67867 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Application Serial No. 77790645

For the mark: B'W Y KIDS CARE (and Design)

Date of Filing: July 27, 2009

IDOC PRODUCTIONS, INC.,

Opposer,

v.

BROADWAY KIDS CARE,

Applicant.

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Opposition No.: 91194528

ANSWER TO NOTICE OF OPPOSITION

Applicant, Broadway Kids Care (“BKC” or “Applicant”), by and through its attorneys The Dorf Law Firm, LLP, as and for its Answer to IDOC Productions, Inc.’s Notice of Opposition to the above referenced application, alleges as follows:

1. BKC is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 1 of the Notice of Opposition.
2. BKC is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 2 of the Notice of Opposition.
3. BKC is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 3 of the Notice of Opposition.
4. BKC admits the allegations in paragraph 4 of the Notice of Opposition.
5. BKC is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 5 of the Notice of Opposition.
6. BKC denies the allegations in paragraph 6 of the Notice of Opposition.

7. BKC denies the allegations in paragraph 7 of the Notice of Opposition.
8. BKC is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 8 of the Notice of Opposition.

AFFIRMATIVE DEFENSES

FIRST DEFENSE

Opposer's Notice of Opposition in whole or in part, fails to state a claim upon which relief can be granted.

SECOND DEFENSE

Opposer lacks standing to file the Notice of Opposition, as it does not have a reasonable basis for its belief that it will be damaged if the opposed application is granted.

THIRD DEFENSE

Opposer's Notice of Opposition is barred by the equitable principle of laches.

FOURTH DEFENSE

Opposer's Notice of Opposition is barred by the equitable principle of estoppel.

FIFTH DEFENSE

Opposer's Notice of Opposition is barred by the equitable principle of acquiescence.

WHEREFORE, Applicant prays for a judgment dismissing the Notice of Opposition in its entirety.

BROADWAY KIDS CARE

By: _____/Ralph Gaboury/
Ralph N. Gaboury, Esq
The Dorf Law Firm, LLP
740 West Boston Post Road, Suite 304
Mamaroneck, NY 10543-3345

P: 914.381.7600
F: 914.381.7608
E: rgaboury@dorflaw.com

Attorneys for Applicant

May 24, 2010

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Answer to Notice of Opposition was served on attorneys for Opposer on May 24, 2010 via first class mail addressed to:

James A. Trigg, Esq.
Kilpatrick Stockton LLP
1100 Peachtree Street NE Suite 2800
Atlanta, GA 20209

By: _____/Ralph Gaboury/
Ralph N. Gaboury, Esq